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27 OCT 2000

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In re Application of  
David Peter FENNER, et al.  
Application No.: 09/269,518  
PCT No.: PCT/GB97/02940  
Int. Filing Date: 27 October 1997  
Priority Date: 28 October 1996  
Attorney Docket No.: 34703.00006  
For: FAN ROTOR

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:  
: DECISION ON  
: PETITION  
: UNDER 37 CFR 1.10(e)  
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This is in response to the "PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT" filed 03 July 2000 and to the communication filed by facsimile on 22 September 2000. Both communications are being treated as a petition under 37 C.F.R. 1.10(e) to accept copies of the papers filed with the petition as being filed originally on 01 July 1999. The petition is **GRANTED** as follows:

No petition fee is necessary.

37 CFR 1.10(e) provides:

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s)

or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

All of the requirements under 37 CFR 1.10(e) have been submitted. The petition was filed promptly after applicants became aware that the Office had no evidence of receipt of the response to the Notification of Missing Requirements of 01 June 1999. The "Express Mail" mailing label submitted with the petition indicates a stamped date and date-in of 01 July 1999 and bears the same "Express Mail" mailing label number (i.e. "Express Mail" label No. EL357877986US) that appears on the originally deposited Response to Notice to File Missing Parts. The petition is also accompanied by a return postcard receipt showing the communication to have been received in the USPTO on 02 July 2000. Applicants' communication of 22 September 2000 states that "the copies included in the Petition to Withdraw Holding of Abandonment filed July 3, 2000 are true and accurate copies of the Response to the Notification of Missing Requirements filed on July 1, 1999." Accordingly acceptance of papers submitted with the petition as being filed 01 July 1999 is appropriate and the Notification of Abandonment of 27 March 2000 is hereby VACATED.

For the reasons above, the petition under 37 CFR 1.10(e) is GRANTED.

Accordingly, the following items filed 03 July 2000 will be treated as filed on 01 July 1999: 1) response to Notice to File Missing Part, 2) executed declaration; 3) completion fees; and 4) Statement Claiming Small Entity Status.

A review of the application file reveals the following:

a) The declaration filed 01 July 1999 is not properly executed and therefore is not in compliance with 37 CFR 1.497. No specification was attached to the declaration as mentioned by applicants therein. Also the declaration does not identify the citizenship of each inventor.

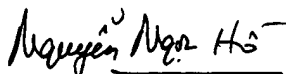
b) The statement claiming small entity status submitted on 02 April 1999 was not signed, therefore applicants were required to pay the full basic national fee of \$840.00 by 28 April 1999 to avoid abandonment of the application. Since one half of that amount was paid, the remaining portion will be charged to Deposit Account No. 10-0447 as authorized in the Transmittal Letter of 02 April 1999.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision, that is a) for charging \$420 to Deposit Account No. 10-0447, and b) for issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) to inform applicants that an oath or declaration in compliance with 37 CFR 1.497 must be submitted in order to avoid abandonment of the application as to the national stage in the United States.



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